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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,572	03/29/2004	Philippe Renard	P24493	9533
7055	7590	02/14/2005	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			BASINGER, SHERMAN D	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary

Application No.

10/810,572

Applicant(s)

RENARD ET AL.

Examiner

Sherman D. Basinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 10/089,151.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/29/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. Paragraph [0001] should be amended to state that application 10/089151 is now patent 6,736,689.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 5-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 575 130 in view of Ellis.

EP 130 discloses a hollow aquatic gliding board comprising:

a lower half-shell 16 having no lateral side-walls;

an upper half-shell 14 comprising a sheet having downwardly curved side-walls;

at least one longitudinal partition 20, at least said one longitudinal partition vertically connecting said lower and upper half-shells.

EP 130 discloses both the upper shell and the lower shell as having honeycomb cores, but does not disclose the upper shell as comprising a sheet of foam and the longitudinal partition being made of foam.

Ellis discloses honeycomb panels used as a core of a surfboard, the cells of the panels being filled with hardened granular foam material.

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It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to fill the cells of the honeycomb cores of the upper shell and the partition of EP 130 with granular foam similar to that used by Ellis. As such the upper shell would comprise a sheet of foam, the honeycomb core filled with foam, and the partition would be made from foam, the honeycomb core filled with foam. Motivation to do so is given by Ellis in column 2, lines 20 and 21.

Claims 5 and 6 are being construed as product by process claims. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based upon the product itself-see MPEP 2113.

For claim 7, see EP 130 column 4, lines 53-56.

For claim 8, see EP 130 column 6, lines 12-32.

The combination of EP 130 and Ellis does not disclose that said at least one partition is made of polypropylene foam, that said polypropylene foam comprises a polypropylene expanded particle foam having a density of approximately 60 kg/m³, that said polypropylene expanded particle foam has a compressive stress at 25% of deformation of approximately 350 kpa measured according to ISO standard 844, that said polypropylene foam comprises a polypropylene expanded particle foam having a density of approximately 20-100 kg/m³ and that said polypropylene expanded particle foam has a compressive stress at 25% of deformation of approximately 100-600 kpa measured according to ISO standard 844.

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However, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to use as the foam filling the cells of the honeycomb core of EP 130 polypropylene foam that comprises a polypropylene expanded particle foam having a density of approximately 60 kg/m³, that has a compressive stress at 25% of deformation of approximately 350 kpa measured according to ISO standard 844, that has a density of approximately 20-100 kg/m³ and that has a compressive stress at 25% of deformation of approximately 100-600 kpa measured according to ISO standard 844. Motivation to do so is to use a particle foam which while providing strength to the partition of EP 130, is durable, light and flexible.

EP 130 does not disclose that said at least one longitudinal partition extends along at least 70 percent of the length of the inner cavity. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to modify the partition 20 to extend along at least 70 percent of the length of the inner cavity of EP 130. As shown in figure 1, the partition extends near to 70 percent of the length of the inner cavity. To modify the partition 20 to extend at least 70 percent of the length of the inner cavity would not require a drastic change in its length. By extending the partition 20 a little more in EP 130, the strength of the upper shell will be improved in the area toward foot straps 170.

4. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 130 and Ellis as combined for claim 1 and further in view of Wojcik and Masters. The partition of EP 130 as modified by Ellis does not comprise a plurality of longitudinal partitions made of elastic foam which is exposed to an inner cavity of the board. Note the plurality of partitions used by Wojcik in figure 20 and note the foam B used by Masters, the foam B being exposed to the inner cavity of the kayak and being a flexible and therefor elastic foam.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide more than one partition 20 in EP 130 in view of the use of multiple partitions by Wojcik. Motivation to do so is to strengthen the gliding board upper shell of EP 130. Further, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide on either side of these partitions flexible foam which is exposed to the inner cavities of EP 130 similar to foam B of Masters. Motivation to do this is found in Masters column 3, lines 5-10.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 130 and Ellis as applied to claim 1 above, and further in view of Masters.

The partition of EP 130 as modified by Ellis does not comprise a partition made of elastic foam which is exposed to an inner cavity of the board. Note the foam B used by

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Masters, the foam B being exposed to the inner cavity of the kayak and being a flexible and therefor elastic foam.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide on either side of the partition 20 of EP 130 flexible foam which is exposed to the inner cavities of EP 130 similar to foam B of Masters. Motivation to do this is found in Masters column 3, lines 5-10.

6. Claims 15, 16 and 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itnyre et al in view of Ellis.

Itnyre et al disclose an aquatic gliding board comprising:

a deck 12 having a downwardly concave transverse cross section;

a hull 11 connected to said deck to form a subassembly;

at least one longitudinally extending partition, 19, 65 and 66 positioned within said subassembly extending from said deck to said hull, said partition comprising a material 65,66

having an elasticity to allow said deck to deflect under pressure of a foot of a surfer on said deck relative to said hull.

Itnyre et al does not disclose that the deck and hull comprise foam material; however, Itnyre et al does disclose the use of honeycomb cores for the deck and hull.

Ellis discloses honeycomb panels used as a core of a surfboard, the cells of the panels being filled with hardened granular foam material.

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It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to fill the cells of the honeycomb cores of the deck and hull of Itnyre et al with granular foam similar to that used by Ellis. Motivation to do so is given by Ellis in column 2, lines 20 and 21.

The polymeric foam of claim 16 is 19 of Itnyre et al.

Claim 26 is being construed as a product by process claim. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based upon the product itself-see MPEP 2113.

Itnyre et al does not disclose that

said material of said partition is polypropylene foam and that

said polypropylene foam of said partition comprises a polypropylene expanded particle foam, that

said foam material of said deck and said foam material of said hull comprise

a polystyrene foam and

that said foam material of said deck and said foam material of said hull comprise

an extruded polystyrene foam.

However, it would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains to make said

material of said partition a polypropylene expanded particle foam, and

said foam material of said deck as provided by Ellis and said foam material of said hull

as provided by Ellis an extruded polystyrene foam.

Motivation to do so is to use a well know kind of foam material which is easy to work with, is durable, is light, and which has characteristics desirable for use as a filler in the honeycomb cores of Itnyre et al and as the foam of 19 of Itnyre et al.

With regard to claim 1, the claims depending therefrom and Itnyre et al, note MPEP 2133.01

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itnyre and Ellis as applied to claim 15 above, and further in view of Masters.

Itnyre et al does not disclose foam 19 as being an elastic foam. Masters discloses the use of flexible, and therefor, elastic foam B. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to make the foam 19 of Itnyre et al flexible and elastic in the manner of the foam B of Masters. Motivation to do so is to further aid vibration reduction.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hoffman is cited to show the soft board fabrication. Renard et al is applicant's prior patent.

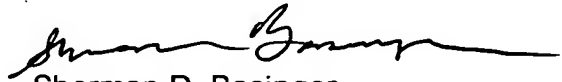
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 703-308-1139. The examiner can normally be reached on M-F (6:00-2:30 ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sherman D. Basinger
Primary Examiner
Art Unit 3617
2/10/05

Thursday, February 10, 2005